

NOT FOR PUBLICATION

SEP 21 2004

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

MANUEL MARQUES-DA SILVA,

Petitioner,

v.

JOHN ASHCROFT, Attorney General,

Respondent.

No. 02-72275

Agency No. A29-515-794

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted September 17, 2004**
Pasadena, California

Before: T.G. NELSON, SILVERMAN, and WARDLAW, Circuit Judges.

Manuel Marques-DaSilva petitions for review of the Board of Immigration Appeals' ("BIA's") streamlined affirmance of the Immigration Judge's ("IJ's")

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

decision. The IJ denied Marques-DaSilva's requests for asylum and withholding of removal. We have jurisdiction pursuant to 8 U.S.C. § 1252 and we deny the petition.

Substantial evidence¹ supports the IJ's conclusion that Marques-DaSilva failed to establish his eligibility for asylum. The kind of harassment and discrimination he detailed does not rise to the level of persecution.² Moreover, he never argued that the government was unable or unwilling to control his alleged persecutors.³

Substantial evidence supports the IJ's determination that Marques-DaSilva failed to satisfy the objective requirement necessary to prove that he had a well-founded fear of future persecution.⁴ Marques-DaSilva failed to demonstrate "good reason to fear future persecution by adducing credible, direct, and specific

¹ *Lopez-Chavez v. INS*, 259 F.3d 1176, 1180 (9th Cir. 2001) (stating that the IJ's decision must be upheld if "supported by reasonable, substantial, and probative evidence on the record considered as a whole"); *see Melkonian v. Ashcroft*, 320 F.3d 1061, 1065 (9th Cir. 2003) (stating that the IJ's decision is reviewed when the BIA does not perform an independent review).

² *See, e.g., Nagoulko v. INS*, 333 F.3d 1012 (9th Cir. 2003); *Hoxha v. Ashcroft*, 319 F.3d 1179 (9th Cir. 2003); *Baballah v. Ashcroft*, 367 F.3d 1067 (9th Cir. 2001).

³ *See Baballah*, 367 F.3d at 1077-78.

⁴ *Duarte de Guinac v. INS*, 179 F.3d 1156, 1159 (9th Cir. 1999).

evidence in the record of facts that would support a reasonable fear of persecution.”⁵ He merely asserted that harassment and discrimination would resume upon his return. As discussed above, the harassment and discrimination he detailed does not constitute persecution. Neither would it constitute persecution were he to return.⁶

Because Marques-DaSilva has failed to meet the eligibility requirements for asylum he has also failed to meet the more stringent standards for mandatory withholding.⁷

Accordingly, we deny the petition.

PETITION DENIED.

⁵ *Id.*

⁶ *See Hoxha*, 319 F.3d at 1182-84.

⁷ *See id.* at 1184-85.